



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Project Name: Amendments to the Land Use Code to Allow Intermittent Uses

Applicant Name: City of Seattle - Department of Design, Construction and Land Use

Address of Proposal: City of Seattle, State of Washington

SUMMARY OF PROPOSED ACTION

The proposal is to amend the Land Use Code, chapters SMC 23.42.040 and SMC 23.76.004, to allow and regulate intermittent uses.

The following approval is required:

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading, or demolition, or another agency with jurisdiction.

Background & Proposal Description

The Department of Design, Construction and Land Use (DCLU) proposes to amend Seattle Municipal Code, Section 23.42.004, in order to allow weekly events, such as farmers markets, various school fundraising activities, live music, festivals and other intermittent uses (uses that occur no more than two days per week for a period of up to one year) to be permitted in all zones. This amendment would apply to various uses that occur no more than two days per week.

The most recognizable examples of intermittent uses are Seattle's farmers markets and similar markets.

Section 23.76.004, Procedures for Master Use Permits and Council Land Use Decisions would also be amended to make decisions for intermittent uses a type I land use decision. This means the decisions would be Type I nonappealable decisions made by the Director which require little or no discretion. However, the amendment would require that intermittent uses meet certain conditions as follows:

- The use shall not occur more than two days per week for a period of up to 1 year
- The use shall not involve the erection of a permanent structure
- The use shall not be materially detrimental to the public welfare
- The use shall not result in substantial injury to the property in the vicinity
- The use shall be consistent with the spirit and purpose of the land use code.

Public Comment

A public hearing on the proposed legislation will be scheduled before the Seattle City Council Landlord/Tenant and Land Use Committee in the spring of 2003. Public testimony will be taken at the hearing, and comments can be submitted in writing before the hearing.

ANALYSIS - SEPA

This proposal is an adoption of legislation and is defined as a non-project action. This action is not specifically addressed as a Categorical Exemption (SMC 25.05.800); therefore it must be analyzed for probable significant adverse environmental impacts. A threshold determination is required for any proposal, which meets the definition of action and is not categorically exempt.

The initial disclosure of the potential impacts from this proposal was made in an environmental checklist submitted by the applicant dated April 21, 2003. The information in the checklist, the Director's Report and Recommendation dated May 15, 2003 (earlier drafts of the proposed ordinance and the Director's Report were also reviewed) and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

This proposal is not expected to adversely impact the natural environment or built environment.

Short-term Impacts

As a non-project action the proposal will not have any short-term impact on the environment in that construction is not a direct result of this action.

Long-term Impacts

The Director may grant, conditionally grant or deny permit requests for intermittent uses based on the following criteria, which is proposed to be part of the Code:

- a. The use shall not be materially detrimental to the public welfare; and*
- b. The use shall not result in substantial injury to the property in the vicinity; and*
- c. The use shall be consistent with the spirit and purpose of the Land Use Code.*

The above criteria provide the Director with flexibility and discretion to condition permits; thereby mitigating adverse impacts associated with intermittent uses. Likely conditions may include; limiting hours of operation, requiring off-street parking and execution of a waste management plan. SEPA overview policy (SMC 25.05.665D) states in part: "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation". The above criteria have been adopted to address impacts generated from the proposed intermittent uses; therefore it can be presumed that such criteria also address environmental impacts.

Currently, the Department allows temporary uses for duration of 4 weeks (28 days) and 6 months (182 days). This amendment will allow intermittent uses for a duration of 104 days which is no greater than what is allowed under current code for 6 month (182 days) temporary uses. Environmental impacts are not expected to perceptibly change because the permit timeframe increases from 6 months to 1 year. In other words, the total number of days an intermittent use is allowed to operate is still less than what is allowed under the temporary use regulations.

Individual projects may be subject to environmental review if the SEPA thresholds are triggered. Projects subject to SEPA could be conditioned to mitigate any adverse impact on the natural or built environment.

No SEPA adverse impacts are expected from this amendment; therefore, no SEPA conditioning is necessary.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 (2) (C).

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 (2) (C).

SEPA CONDITIONS

None.

Signature: (signature on file) Date: May 15, 2003
Jess E. Harris, AICP
Land Use Planner
Department of Design, Construction and Land Use

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